

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD M. JOHNSON,

Plaintiff,

v.

THE MCGRAW-HILL COMPANIES,  
MACMILLAN/MCGRAW-HILL,  
MCGRAW-HILL SCHOOL DIVISION,  
ROBERT WAKEHAM AS NATIONAL  
SALES MANAGER OF MACMILLAN/  
MCGRAW-HILL & INDIVIDUALLY,  
ANNA MAE STINE AS SENIOR VICE  
PRESIDENT OF MCGRAW-HILL  
SCHOOL DIVISION & INDIVIDUALLY,  
KATHLEEN NAUMAN AS VICE  
PRESIDENT, MIDWEST REGION,  
MCGRAW-HILL SCHOOL DIVISION &  
INDIVIDUALLY, & SUCCESSORS and  
ASSIGNS,

Defendants.

Civil Action No. 03-889

**MEMORANDUM ORDER**

AND NOW, this 29<sup>th</sup> day of December, 2006, upon consideration of Defendants' MOTION IN LIMINE TO PRECLUDE TESTIMONY BY WITNESSES NOT IDENTIFIED BY PLAINTIFF DURING DISCOVERY (Document No. 108), Plaintiff's MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANTS' MOTION IN LIMINE (Document No. 109) and Defendants' reply brief (Document No. 113), and it appearing that the disclosure by Plaintiff of a number of fact witnesses for the first time in his pretrial statement on October 5, 2006 was not done in bad faith or with willful deception or flagrant disregard of a court's order and that any prejudice which may befall Defendants is curable through a brief period of discovery which should not be disruptive to the trial scheduled to commence on March 2, 2007,

NOW THEREFORE, Defendants' Motion in Limine (Document No. 108) is **DENIED**. Plaintiff shall submit to Defendants a written proffer of the proposed testimony of each of the newly-identified witnesses on or before January 12, 2007. Thereafter, Defendants shall have thirty (30) days for discovery, when said witnesses may be deposed or interviewed in an informal

manner. Defendants are permitted to identify and present countervailing witnesses, if appropriate.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Court Judge

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